

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on April 12, 2005 at 4:30 P.M. Present were Mayor Teresa Ann Isaac in the chair presiding, and the following members of the Council: Council Members McChord, Moloney, Myers, Scanlon, Stevens, Wigginton, Brown, DeCamp, Ellinger, Farmer, Gorton and Lane. Absent were Council Members Shafer, Stinnett and Cegelka.

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An Ordinance changing the zone from a Light Industrial (I-1) zone to a Planned Neighborhood Residential (R-3) zone for 154.89 net (163.89 gross) acres, from a Light Industrial (I-1) zone to a Neighborhood Business (B-1) zone for 2.00 net (2.43 gross) acres, and from a Light Industrial (I-1) zone to a Professional Office (P-1) zone for 8.36 net (9.70 gross) acres of property located at 2501, 2685 and 2275 Spurr Road and 2851 Georgetown Road (Barlow Homes, LLC) was on the docket for second reading with a public hearing being held.

Upon motion of Dr. Stevens, seconded by Ms. Gorton and passed by unanimous vote, the ordinance was amended to correct the property address number from 2275 Spurr Road to 2775 Spurr Road.

The ordinance was given second reading as amended.

The Mayor swore in the witnesses.

Mr. Bill Sallee, Div. of Planning, made his presentation and filed the following exhibits: (1) Legal Notice, (2) Affidavit of notices mailed, (3) MAR 2004-46, (4) Land Subdivision Regulations, (5) Zoning Ordinance with amendments, (6) 2001 Comprehensive Plan, (7) USA #1 zoning map, (8) Photos of property and surrounding area, (9) Comprehensive Plan Map – North and (10) Preliminary Development Plan.

The Mayor asked whether there were any objectors to the zone change request present, and there were none.

Ms. Rena Wiseman, attorney for the petitioner, gave the reasons for the requested zone change and filed the following exhibits: (1) Preliminary Development Plan board, (2) Photo of sewer in area, (3) Affidavit of signs posted, (4) Exhibit Book, which included the following: (a) KRS 100.213, (b) MAR 82-25 Planning Commission Minutes (May 20, 1982), (c) MAR 82-25 (Amd.) Planning Commission Minutes (May 28,

1987), (d) Excerpt from OPSS, (e) Letter from Mike Woolum re: Sanitary Sewers, (f) Summary of Marketing Efforts, (g) Commerce Lexington: “Available Industrial Property”, (h) Commerce Lexington/KY Economic Development Cabinet: Lexington-Fayette Industrial Sites, (i) Industrial Sites Available in Surrounding Counties, (j) Large Manufacturing Employers in MSA Since 1987, (k) Marketing Analysis Conclusion, (l) Typical Lot Sizes – Georgetown Road Corridor, (m) Summary of Lexington’s Industrial Warehouse/Flex Market Study (Coleman Group), (n) MAR 2001-33 Planning Commission Minutes (January 24, 2002) (Georgetown Road), (o) Residential and Industrial Building Permits 1994-2004, (p) MAR 2003-30 Planning Commission Minutes (October 23, 2003) (1000 Greendale Road), (q) MAR 2003-36 Planning Commission Minutes (January 22, 2004) (1501, 1551, and 1555 Georgetown Road and 2040 Sandersville Road), (r) UK Retirement Community (Herald-Leader – September 22, 2004), (s) Herald-Leader Articles re: New Bryan Station High School, (t) Herald-Leader Articles re: North End Development, (5) Commerce Lexington – Available Property, (6) Commerce Lexington – Available Industrial Sites, (7) Market Analysis, (8) Georgetown Road Corridor, (9) Georgetown Road Corridor Area map, (10) Aerial Photo showing Residential Development, (11) Housing Supply/Demand Analysis and (12) Proposed Findings of Fact for Approval.

The following witnesses spoke in favor of the requested zone change: (1) Mr. Will Berkley, Berkley Appraising Company, and (2) Mr. Ray Rector, realtor.

The Council asked questions of Mr. Sallee, Ms. Wiseman, Ms. Sara Tuttle, Strand Engineers, Mr. John Barlow, petitioner, Mr. Berkley, Mr. Ed Gardner, Dept. of Law, and Mr. Patrick Sullivan, subject property owner.

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The Council recessed at 7:05 p.m.

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The Council returned at 7:25 p.m. with the same members present.

Mr. Wigginton made a motion, seconded by Mr. Scanlon, to approve the following Findings of Fact for Approval from the petitioner with the following conditions:

1. The existing I-1 zoning is inappropriate and improper because:
  - a. The property, which contains approximately 166 acres, has been recommended for industrial uses by the Comprehensive Plan since 1980 and has been zoned Light Industrial (I-1) since 1987. The property has

not developed and there has been no interest from potential developers in developing the entire property for industrial uses for the past 18 years.

- b. The property was listed with the Bluegrass Business Relocation Center in 1997 to be marketed as industrial land, but the owners received no calls nor inquiries about the property as a result of that listing.
- c. The property is not listed by Commerce Lexington, Lexington's primary industrial marketing entity, nor by the Kentucky Cabinet for Economic Development as one of the available industrial properties in Lexington-Fayette County.
- d. The OPSS plans of the Lexington-Fayette Urban County Government designate a permanent pump station and force main to be located on the property which must be constructed in order for the property to develop. The cost of the pump station and related sewer facilities is approximately \$1.5 million, all of which must be paid by the developer. In addition, the property will also be assessed a sewer privilege fee of approximately \$5,000 per acre. Thus, in addition to standard development costs of \$50,000 per acre, the developer will have to expend an additional \$11,000 per acre in sewer costs. Although the developer can recover a portion of the sewer costs as the property develops, the historic lack of demand for the property for industrial use, as well as the slow absorption rates for industrial land, will defer such cost recovery for several years. Therefore, the significant upfront expenditure required to provide sanitary sewers renders industrial development economically infeasible.
- e. The property does not have convenient access to the interstate system. There are no current or long-term plans for construction of an interchange at this location. Most industrial, warehouse, and distribution facilities rely on truck transportation for transporting goods, and, therefore, the lack of convenient interstate access renders the site less desirable for industrial uses.
- f. There is an adequate supply of industrial and employment property in the area to meet the community's needs for many years. Moreover, much of that land, including Coldstream and other properties on Georgetown Road, has access to sanitary sewers without extraordinary costs. The market study submitted by the applicant concludes that industrial development in the Georgetown Road corridor has occurred at an absorption rate of 17.7 acres per year based on development occurring since 1989. The study also finds that there are approximately 913 acres of land zoned for industrial and employment-related uses within a 2½ mile radius, not including the subject property. Thus, based on historic absorption rates, there is a 44-year supply of industrial and employment land in the area.
- g. In addition to the industrial and employment acreage available in the area, there are numerous industrial tracts available for immediate use at a much lower per acre price than the subject property would require, given land and development costs. For example, there are 139 acres available in the Lanes Run Business Park in Scott County at \$25,000 per acre, 134 acres available at Bottoms Industrial Park in Franklin County at \$15,000 per acre, and 134 acres at Winchester Industrial Park 2 at \$25,000 per acre. Other surrounding counties also offer industrial land at more competitive prices, including Madison, Jessamine, and Harrison Counties. All of these tracts are served by or have ready access to sewer facilities.
- h. There is a significant supply of industrial/warehouse space available in Lexington. A recent survey of 70 facilities shows a vacancy rate of nearly 25% for such space in Lexington. Also, Commerce Lexington lists 1.4 million square feet of available space at 31 locations in Fayette County.

Available space ranges in size between 10,000-200,000 square feet. By the same token, there is also a large supply of existing available space in surrounding counties as demonstrated by the data compiled by Commerce Lexington.

2. The proposed mix of residential, office, and business zoning is appropriate and proper because:
  - a. There is a strong demand for residential development in the area as evidenced by the development of the Masterson Station Subdivision, Coventry Subdivision, Belmont Farm, Greendale Village, and the Downing property. In addition, in 2000, the property to the west of the subject property at 2800-2808 Spurr Road (Dotson property) was rezoned to R-3 (Planned Neighborhood Residential) for around 42 acres, and, in 2004, the property at 3061 and 3065 Spurr Road (Woodward Lander Property) was rezoned to R-3 for about 35 acres.
  - b. Three properties in the corridor have been rezoned **from** industrial and employment **to** residential uses, including over 175 acres at 2240, 2350, 2400, and 2550 Georgetown Road, approximately 20 acres at 1000 Greendale Road and 57 acres at 2040 Sandersville Road. The latter two properties were rezoned in 2003 and 2004, respectively, from the I-1 zone, in disagreement with the Comprehensive Plan, based on the finding that the industrial zoning was inappropriate and the residential zoning was appropriate.
  - c. The demand for single-family homes remains strong. 1,985 permits for single-family homes were issued in 2003, the highest number ever issued in Lexington-Fayette County and 1,956 permits were issued in 2004. The strong demand for residential use and the likelihood the proposed development will be substantially completed in 5-6 years will make it economically feasible to install the sewer infrastructure required by the Lexington-Fayette Urban County Government's sewer plans.
  - d. The property is large enough to provide a variety of housing types, including single-family detached homes, townhomes, and apartments. New residential development in the area has been primarily single-family and it is appropriate to provide other housing types in this area.
  - e. The University of Kentucky has announced plans to develop the 192-acre property directly across Georgetown Road for residential uses, specifically, as a retirement community.
  - f. The proposed B-1 area will provide convenient neighborhood services for the residents of the development. The B-1 area is located on Georgetown Road at the intersection with a new collector. The provision of a small neighborhood retail site is consistent with the provisions of the Comprehensive Plan which recommend that such uses be conveniently located in residential areas. Specifically, the Plan at Goal 15 encourages the appropriate location of residential and commercial land uses so as to provide adequately sized and designed facilities to serve the neighborhood. Moreover, the Plan emphasizes that the creation of neighborhood centers, including retail, as a focal point of the neighborhood "should be a goal of each new neighborhood development in Lexington." (Comprehensive Plan at p. 5-4)
  - g. The proposed P-1 area is appropriate given its location at the intersection of Spurr and Georgetown Roads. It is sized so as to provide services such as medical and dental offices or semi-public uses such as a church. The location of a small office area will provide convenient access to services and employment opportunities for the future residents of the proposed development, as well as residents in the area. The P-1 area

also provides a good buffer between Georgetown Road and the new single-family homes on Spurr Road.

h. The proposed residential development with the small retail and office area is consistent with the long-standing goal of the community to create a balance between the north and south ends with respect to residential opportunities and necessary services.

3. There have been unanticipated changes in the area since the adoption of the 2001 Comprehensive Plan which have significantly altered the character of the area from a primarily industrial area to one more appropriate for residential development:
  - (a) The Planning Commission and the Council have recently rezoned two properties from Light Industrial (I-1) zoning to Planned Neighborhood Residential (R-3). The property located at 1000 Greendale Drive was rezoned in 2003 from I-1 to R-3 for about 18 acres based upon the finding that the proposed residential zoning is appropriate and the existing I-1 is inappropriate notwithstanding that the residential zoning did not agree with the Comprehensive Plan. By the same token, the properties at 1501, 1551, and 1555 Georgetown Road and 2040 Sandersville Road were rezoned from R-3 in 2004 based upon the finding that the existing residential zoning is appropriate and the industrial zoning is inappropriate. As in the previous zone change, the proposed residential zoning did not agree with the recommendation of the Comprehensive Plan which calls for the property to be developed for industrial uses. Both of these properties are located within the Georgetown Road Corridor.
  - (b) The property directly across the street is planned for development by the University of Kentucky as a retirement community composed primarily of residential development. That property contains 192 acres. At the time of the adoption of the 2001 Comprehensive Plan, it was not anticipated that the property directly across Georgetown Road would be developed for residential uses.
  - (c) In 2003, the Board of Education approved expenditure of approximately \$44 million to construct a new Bryan Station High School to serve residents of the north end of the community. The proposed construction of the new high school confirms the increased demand for and desirability of residential development in the north end.

That the granting of this zone change is made subject to the following which are conditions of granting the zone change:

1. An 8-foot solid fence or wall designed to mitigate noise shall be constructed along the property line where the railroad runs adjacent to the property except in areas of open space and such fence or wall shall be screened from view from the developed portion of the property by trees, foliage, or other suitable plants.
2. Side yards on lots developed as single family dwellings shall be not less than six (6) feet.
3. A two (2) acre tract within the subject property shall be dedicated to the Lexington-Fayette Urban County Government for use as a park or play area.

These conditions are appropriate and necessary at this location to provide noise abatement for the development, to ensure adequate side yards for single-family dwellings, and to provide recreation opportunities for the residential neighborhood and will preserve the integrity and character of the area.

The motion passed by the following vote:

Aye: McChord, Moloney, Myers, Scanlon, Stevens, Wigginton, Brown,  
Ellinger, Farmer, Gorton, Lane ----- 11

Nay: DeCamp ----- 1

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The Council recessed at 7:32 p.m.

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The Council returned at 7:35 p.m. with the same members present.

Mr. Wigginton made a motion, seconded by Mr. Farmer and passed by unanimous vote, to amend the ordinance to include the conditions.

An Ordinance changing the zone from a Light Industrial (I-1) zone to a Planned Neighborhood Residential (R-3) zone for 154.89 net (163.89 gross) acres, from a Light Industrial (I-1) zone to a Neighborhood Business (B-1) zone for 2.00 net (2.43 gross) acres, and from a Light Industrial (I-1) zone to a Professional Office (P-1) zone for 8.36 net (9.70 gross) acres of property located at 2501, 2685 and 2775 Spurr Road and 2851 Georgetown Road (Barlow Homes, LLC) and imposing conditions upon approval of an 8-foot solid fence or wall designed to mitigate noise, requiring a minimum side yard of six (6) feet for single family dwellings, and requiring dedication of two (2) acres for a park/play area was given first reading as amended.

Upon motion of Mr. Wigginton and seconded by Mr. Myers the rules were suspended by unanimous vote. The ordinance was given second reading and passed by the following vote:

Aye: McChord, Moloney, Myers, Scanlon, Stevens, Wigginton, Brown,  
Ellinger, Farmer, Gorton, Lane ----- 11

Nay: DeCamp ----- 1

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The Council adjourned at 7:38 p.m.

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Clerk of the Urban County Council